

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

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**VIASAT, INC.,**

**Plaintiff,**

**vs.**

**KIOXIA CORPORATION and KIOXIA  
AMERICA, INC.,**

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**Defendants.**

**Case No. 6:21-cv-1231**

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO  
DEFENDANTS' MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)**

Having reviewed the Amended Complaint and Response (Docket Nos. 33 and 34) filed on April 22, 2022, by Viasat, Kioxia agrees that the Amended Complaint includes substantive revisions relevant to Defendants' Motion to Dismiss. Under this Court's precedent, such changes are sufficient to render the motion to dismiss the original complaint moot regardless of whether they fully cure the deficiencies. Therefore, Kioxia agrees that the pending Motion to Dismiss (Docket No. 29) should be denied without prejudice as moot. Kioxia will respond to the amended complaint in due course.

Dated: May 6, 2022

Respectfully submitted,

/s/ Michael Hawes

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served May 6, 2022, with a copy of this document via the Court's CM/ECF system.

*/s/ Michael Hawes*  
Michael Hawes